

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
NORTHERN DIVISION
NO. 2:11-CR-38-H
NO. 2:12-CV-72-H

CORNELL BROWN,)	
)	
Petitioner,)	
)	
v.)	ORDER
)	
UNITED STATES OF AMERICA,)	
)	
Respondent.)	

This matter is before the court, pursuant to Rule 59(3) of the Federal Rules of Civil Procedure, on petitioner's motion, entitled "Motion for Reconsideration in the Manifest Interest of Justice," filed April 22, 2013. Petitioner requests that the court reconsider its March 13, 2013, order denying petitioner's motion to vacate pursuant to 28 U.S.C. § 2255.

Courts have generally recognized three grounds for altering or amending judgments. See Hutchinson v. Staton, 994 F.2d 1076, 1081 (4th Cir. 1993). Specifically, courts will alter or amend "an earlier judgment: (1) to accommodate an intervening change in controlling law; (2) to account for new evidence not available at trial; or (3) to correct a clear error of law or prevent manifest injustice." Id.

The court has carefully reviewed petitioner's motion for reconsideration, as well as the record in this matter, and finds

no reason to alter or amend its judgment. To the extent petitioner's motion seeks to raise an additional claim (ineffective assistance of appellate counsel) that was not presented in his original § 2255 motion, that claim is not properly before the court on a motion for reconsideration, but should instead be filed as a separate § 2255 motion. Absent certification by the Fourth Circuit Court of Appeals, this court is without jurisdiction to consider such a claim. See 28 U.S.C. § 2255(h) ("A second or successive motion must be certified . . . by a panel of the appropriate court of appeals").

Petitioner's motion [DE #70] is DENIED, and the judgment entered March 26, 2013, is hereby reaffirmed. Petitioner's motion for extension of time [DE #69] is DISMISSED as moot.¹

Finding no substantial issue for appeal concerning the denial of a constitutional right, see 28 U.S.C. § 2253(c)(2), a certificate of appealability is DENIED.

This 10th day of May 2013.



MALCOLM J. HOWARD
Senior United States District Judge

At Greenville, NC
#31

¹On April 15, 2013, petitioner filed a motion requesting a seven-day extension of time for filing his Rule 59(e) motion. However, petitioner filed his motion within the time prescribed by Rule 59(e), and the extension motion is therefore moot.